

United States Courts
Southern District of Texas
FILED

April 17, 2024

Nathan Ochsner, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

vs.

KARINA DELUNA

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§

CRIMINAL NO. **4:22-cr-00610-1**

SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES THAT:

COUNT ONE
(18 U.S.C. § 371—Conspiracy)

At all times material to this Indictment:

A. BACKGROUND AND DEFINITIONS

1. Under the Gun Control Act, a “firearms dealer” is any person engaged in the business of selling, renting, leasing, or loaning firearms. The Gun Control Act states that no person shall deal in firearms until he or she has filed an application to do so with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (hereafter “BATFE”) and received a Federal Firearms License (hereafter “FFL”) issued by the BATFE. Each Federal Firearms Licensee (hereafter “licensed dealer” or “FFL”) must maintain records of the receipt, sale, or other disposition of firearms at his place of business as long as the business is in operation. Upon the closing of such business, the FFL must forward all of the required firearms records to the BATFE Out of Business Section where they are maintained indefinitely.

2. The Gun Control Act requires that each FFL must maintain in a bound book the record of every firearm receipt, sale, or other disposition. Such record must include the name and address of the person to whom the dealer sells or otherwise disposes of any firearm. The BATFE may inspect the premises, inventory, and record keeping requirements, or trace a firearm sold by

the FFL that was later recovered in a crime.

3. The BATFE Form 4473 (hereafter “Form 4473”) is a document used and maintained by the FFL to create a written record of each firearm sale or disposition. The Form 4473 is completed in part by the FFL and in part by the firearms purchaser at the time a firearm is sold or otherwise disposed of. The Form 4473 memorializes that an FFL has taken all precautions required by the BATFE and his license to ensure he does not transfer a firearm to a person who is prohibited from possessing it. Accordingly, among other things, the Form 4473 also requires that the purchaser truthfully answer a series of questions about the firearms transaction.

4. One important question asked of the firearms purchaser is, “Are you the actual buyer of the firearm(s) listed on this form?” The block on the Form 4473 containing this question goes on to warn that, “You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you.” The Form 4473 certification section reemphasizes “I understand that answering “yes” to question 21a (2020 Form) or question 11a (Revised October 2016 Form), if I am not the actual transferee/buyer, is a crime punishable as a felony under Federal law and may also violate state and/or local law.” FFLs must keep each executed Form 4473 at their place of business and must make them available to the BATFE for inspection.

5. The purpose of the Form 4473 is threefold. The first is to cause FFLs and prospective firearm purchasers alike to take note of any legal impediments to the consummation of a firearms sale before deciding to proceed. The second is to acquire sufficient information about the purchaser to enable the Federal Bureau of Investigation (hereafter “FBI”), through its National Instant Background Checking System (hereafter “NICS”), to perform a criminal history check of

the purchaser to verify he or she is not prohibited from possessing a firearm on account of a prior felony conviction or status as an illegal alien, among several other prohibitions. The third purpose of the ATF Form 4473 is to create a traceable record of the sale of a firearm, which permits law enforcement officers in an on-going criminal investigation involving a firearm, to trace the firearm to its last-known purchaser.

6. The information provided by the purchaser of a firearm on the Form 4473 must be true and accurate. It is a felony offense for any person to knowingly provide false information on a Form 4473.

7. The export of firearms and ammunition from the United States is strictly controlled by federal laws and regulations. The Commerce Control List (“CCL”), located at Title 15, Code of Federal Regulations, Section 774, details commodities, software, and technology subject to control by the United States Department of Commerce, Bureau of Industry and Security (“BIS”) pursuant to the Export Control Reform Act, Title 50, United States Code, Chapter 58. The CCL is part of the Export Administration Regulations (“EAR”), located at Title 15, Code of Federal Regulations, Section 730 et seq. Firearms and Ammunition are designated as controlled items in Section 774, Appendix Supplement Number 1 of the CCL.

8. According to Title 15, Code of Federal Regulations, Section 736.2, a person may not export an item subject to the EAR to another country if exporting that item to that country requires a license. Exportation of firearms to the United Mexican States requires a license.

9. Neither KARINA DELUNA nor an unindicted coconspirator (hereinafter “COCONSPIRATOR #1”) had a license, or any authority, to export firearms or ammunition out of the United States to United Mexican States.

B. OBJECTS OF THE CONSPIRACY

10. Beginning on an unknown date, but no later than on or about September 29, 2018, and continuing thereafter until at least on or about August 11, 2022, in the Houston Division of the Southern District of Texas, and elsewhere, the defendant,

KARINA DELUNA

did knowingly combine, conspire, confederate, and agree with COCONSPIRATOR #1, and with other persons known and unknown to the Grand Jury, in connection with the acquisition of firearms from a licensed dealer of firearms within the meaning of that term in Chapter 44 of Title 18 of the United States Code, to knowingly make false written statements and representations to licensed firearms dealers with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of the respective licensed dealers in that the conspirators, represented on ATF Forms 4473 that they were the actual buyers of the firearms, when in fact, as the defendants well knew, they were not the actual buyers of the firearms, in violation of Title 18, United States Code, Sections 924(a)(1)(A) and 924(a)(1)(D).

11. Beginning on an unknown date, but no later than on or about September 29, 2018, and continuing thereafter until at least on or about August 11, 2022, in the Houston Division of the Southern District of Texas, and elsewhere, the defendant,

KARINA DELUNA

did knowingly combine, conspire, confederate, and agree with COCONSPIRATOR #1, and with other persons known and unknown to the Grand Jury, to knowingly and unlawfully conceal, buy, or facilitate the transportation and concealment of any merchandise, article or object, prior to exportation, to-wit: firearms and ammunition, which are controlled items as defined in the CCL,

knowing the same to be intended for exportation from the United States, contrary to any law or regulation of the United States, that is, Title 50, United States Code, Section 4819, and a BIS license was required pursuant to Part 742.4, 742.6 and 742.17 of the Export Administration Regulations (EAR) (15 C.F.R. Part 730 et seq.), for the export or re-export to the United Mexican States of the aforementioned items, and the defendant had not received a license or authorization for such export, in violation of Title 18, United States Code, Section 554.

C. MANNER AND MEANS OF THE CONSPIRACY

12. It was part of the conspiracy that the defendant and her conspirators, both known and unknown to the Grand Jury:

- a. Directed, oversaw, coordinated, facilitated, and personally engaged in the purchase of firearms from Federal Firearms Licensed (“FFL”) dealers and falsely represented to the FFL dealers on ATF Form 4473 that they were the actual buyers of the firearms, when in fact they were not.
- b. Did purchase said firearms on behalf of others known and unknown to the Grand Jury. In particular, members of the conspiracy purchased specific types of firearms as requested by conspirators known and unknown to the Grand Jury, with United States currency provided by conspirators known and unknown to the Grand Jury.
- c. Directed, oversaw, coordinated, and facilitated the purchase of firearms that were destined for the United Mexican States, in violation of Federal law.
- d. Successfully exported multiple firearms to the United Mexican States, as firearms previously purchased by the conspirators have been recovered and traced in the United Mexican States.

D. OVERT ACTS

13. In furtherance of and to affect the objectives of the conspiracy, and to accomplish its purposes and objectives, the defendant and others, both known and unknown to the Grand Jury, committed and caused to be committed the following overt acts, among others, in the Southern District of Texas:

a. On or about September 29, 2018, KARINA DELUNA purchased a Ruger, Model: AR-556, .556 caliber rifle, bearing serial number 851-20228, from Federal Firearms Licensed (FFL) dealer Northwest Pawn, by executing a United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473, Firearms Transaction Record, to the effect that she was the actual buyer of the aforementioned firearm, whereas in truth and in fact she was not the actual buyer of the firearm.

b. During the existence of the conspiracy, KARINA DELUNA acquired firearms by making a false statement and representation to a Federal Firearms Licensed (“FFL”) dealer on an ATF Form 4473.

c. During the existence of the conspiracy, COCONSPIRATOR #1 acquired firearms by making a false statement and representation to a Federal Firearms Licensed (“FFL”) dealer on an ATF Form 4473.

14. The Grand Jury incorporates by reference as additional overt acts the false statements with respect to records required to be maintained by federal firearms licensed dealers undertaken in furtherance of the conspiracy and to accomplish the object of the conspiracy, as set forth in Counts Three, Four, Five, Six, Seven, Eight, and Nine; and the smuggling of goods from the United States undertaken in furtherance of the conspiracy and to accomplish the object of the

conspiracy, as set forth in Count Two.

All in violation of Title 18, United States Code, Section 371

COUNT TWO
(18 U.S.C. § 554—Smuggling Goods from the United States)

15. Beginning on or about December 26, 2020, in the Houston Division of the Southern District of Texas, the defendant,

KARINA DELUNA

aided and abetted and knowingly and unlawfully concealed, bought, or facilitated the transportation and concealment of any merchandise, article or object, prior to exportation, to-wit: a Anderson firearm, Model: AM15, 5.56 caliber rifle, bearing Serial Number: 20317659, a ATI, Model: Omni Hybrid, 5.56 caliber pistol, bearing Serial Number: NS292887, a Model: AM15, 5.56 caliber rifle, bearing Serial Number: 20306054, a Anderson firearm, Model: AM15, 5.56 caliber rifle, bearing Serial Number: 20317663, a Taurus firearm, Model: PT111 G2A, 9mm pistol, bearing Serial Number: ACG987316, a Taurus firearm, Model: PT111 G2A, 9mm pistol, bearing Serial Number: ACG987253, a Del-Ton, Model: DTI-I5, 5.56 caliber rifle, bearing Serial Number: DTI-S239574, a DPMS, Model: DR15, SN: DR15001145, 5.56 caliber rifle, a Diamond Back, Model: DB 223/5.56, SN: DB249790S, 5.56 caliber rifle, a Ruger, Model: AR-556, SN: 1850-03250, 5.56 caliber rifle, a Ruger, Model: AR-556, SN: 1850-03240, 5.56 caliber rifle, and a Barrett, Model 82A1, SN: AA013868, .50 caliber rifle, which are controlled items as defined in the CCL, knowing the same to be intended for exportation from the United States, contrary to any law or regulation of the United States, that is, Title 50, United States Code, Section 4819, and a BIS license was required pursuant to Part 742.4, 742.6 and 742.17 of the Export Administration Regulations (EAR) (15 C.F.R. Part 730 et seq.), for the export or re-export to the United Mexican

States of the aforementioned items, and the defendant had not received a license or authorization for such export.

In violation of Title 18, United States Code, Sections 554 and 2.

COUNT THREE

(18 U.S.C. § 924(a)(1)(A)—Making a False Statement with Respect to Records Required to be Maintained by a Federal Firearms License Dealer)

16. On or about December 26, 2020, in the Houston Division of the Southern District of Texas, the defendant,

KARINA DELUNA

did knowingly make a false statement and representation to Northwest Pawn, a person licensed under the provisions of Chapter 44 of Title 18, United States Code, with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Northwest Pawn, in that KARINA DELUNA acquired an Anderson firearm, Model: AM15, 5.56 caliber rifle, bearing Serial Number: 20317659 and an ATI, Model: Omni Hybrid, 5.56 caliber pistol, bearing Serial Number: NS292887, by executing a United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473, Firearms Transaction Record, to the effect that she was the actual buyer of the aforementioned firearms, whereas in truth and in fact she was not the actual buyer of the firearms.

In violation of Title 18 United States Code, Section 924(a)(1)(A).

COUNT FOUR

(18 U.S.C. § 924(a)(1)(A)—Making a False Statement with Respect to Records Required to be Maintained by a Federal Firearms License Dealer)

17. On or about January 09, 2021, in the Houston Division of the Southern District of Texas, the defendant,

KARINA DELUNA

did knowingly make a false statement and representation to Northwest Pawn, a person licensed under the provisions of Chapter 44 of Title 18, United States Code, with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Northwest Pawn, in that KARINA DELUNA acquired an Anderson firearm, Model: AM15, 5.56 caliber rifle, bearing Serial Number: 20306054 and an Anderson firearm, Model: AM15, 5.56 caliber rifle, bearing Serial Number: 20317663, by executing a United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473, Firearms Transaction Record, to the effect that she was the actual buyer of the aforementioned firearms, whereas in truth and in fact she was not the actual buyer of the firearms.

In violation of Title 18 United States Code, Section 924(a)(1)(A).

COUNT FIVE

(18 U.S.C. § 924(a)(1)(A)—Making a False Statement with Respect to Records Required to be Maintained by a Federal Firearms License Dealer)

18. On or about July 06, 2021, in the Houston Division of the Southern District of Texas, the defendant,

KARINA DELUNA

did knowingly make a false statement and representation to Northwest Pawn, a person licensed under the provisions of Chapter 44 of Title 18, United States Code, with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Northwest Pawn, in that KARINA DELUNA acquired a Taurus firearm, Model: PT111 G2A, 9mm pistol, bearing Serial Number: ACG987316 and a Taurus firearm, Model: PT111 G2A, 9mm pistol, bearing Serial Number: ACG987253, by executing a United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473, Firearms Transaction Record,

to the effect that she was the actual buyer of the aforementioned firearms, whereas in truth and in fact she was not the actual buyer of the firearms.

In violation of Title 18 United States Code, Section 924(a)(1)(A).

COUNT SIX

(18 U.S.C. § 924(a)(1)(A)—Making a False Statement with Respect to Records Required to be Maintained by a Federal Firearms License Dealer)

19. On or about July 07, 2021, in the Houston Division of the Southern District of Texas, the defendant,

KARINA DELUNA

did knowingly make a false statement and representation to Northwest Pawn, a person licensed under the provisions of Chapter 44 of Title 18, United States Code, with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Northwest Pawn, in that KARINA DELUNA acquired a Del-Ton, Model: DTI-I5, 5.56 caliber rifle, bearing Serial Number: DTI-S239574, by executing a United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473, Firearms Transaction Record, to the effect that she was the actual buyer of the aforementioned firearms, whereas in truth and in fact she was not the actual buyer of the firearms.

In violation of Title 18 United States Code, Section 924(a)(1)(A).

COUNT SEVEN

(18 U.S.C. § 924(a)(1)(A)—Making a False Statement with Respect to Records Required to be Maintained by a Federal Firearms License Dealer)

20. On or about December 24, 2021, in the Houston Division of the Southern District of Texas, the defendant,

KARINA DELUNA

did aid and abet others known and unknown to the Grand Jury, who knowingly made a false statement and representation to Guns of Texas, a person licensed under the provisions of Chapter 44 of Title 18, United States Code, with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Guns of Texas, in that COCONSPIRATOR #1 acquired a DPMS, Model: DR15, SN: DR15001145, 5.56 caliber rifle and a Diamond Back, Model: DB 223/5.56, SN: DB249790S, 5.56 caliber rifle, by executing a United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473, Firearms Transaction Record, to the effect that she was the actual buyer of the aforementioned firearm, whereas in truth and in fact she was not the actual buyer of the firearm.

In violation of Title 18 United States Code, Sections 924(a)(1)(A) and 2.

COUNT EIGHT

(18 U.S.C. § 924(a)(1)(A)—Making a False Statement with Respect to Records Required to be Maintained by a Federal Firearms License Dealer)

21. On or about May 19, 2022, in the Houston Division of the Southern District of Texas, the defendant,

KARINA DELUNA

did aid and abet others known and unknown to the Grand Jury, who knowingly made a false statement and representation to Telephone Pawn, a person licensed under the provisions of Chapter 44 of Title 18, United States Code, with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Telephone Pawn, in that COCONSPIRATOR #1 acquired a Ruger, Model: AR-556, SN: 1850-03250, 5.56 caliber rifle and a Ruger, Model: AR-556, SN: 1850-03240, 5.56 caliber rifle, by executing a United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473,

Firearms Transaction Record, to the effect that she was the actual buyer of the aforementioned firearm, whereas in truth and in fact she was not the actual buyer of the firearm.

In violation of Title 18 United States Code, Sections 924(a)(1)(A) and 2.

COUNT NINE

(18 U.S.C. § 924(a)(1)(A)—Making a False Statement with Respect to Records Required to be Maintained by a Federal Firearms License Dealer)

22. On or about August 11, 2022, in the Houston Division of the Southern District of Texas, the defendants,

KARINA DELUNA

did aid and abet others known and unknown to the Grand Jury, who knowingly made a false statement and representation to Guns of Texas, a person licensed under the provisions of Chapter 44 of Title 18, United States Code, with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Guns of Texas, in that COCONSPIRATOR #1 acquired a Barrett, Model 82A1, SN: AA013868, .50 caliber rifle by executing a United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473, Firearms Transaction Record, to the effect that she was the actual buyer of the aforementioned firearm, whereas in truth and in fact she was not the actual buyer of the firearm.

In violation of Title 18 United States Code, Sections 924(a)(1)(A) and 2.

NOTICE OF CRIMINAL FORFEITURE

23. The allegations contained in Counts One, Two, Three, Four, Five, Six, Seven, Eight and Nine of this indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18 United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c).

24. Upon conviction of offenses in violation of Title 18, United States Code, Sections 924, 371, or 554, as set forth in Counts One, Two, Three, Four, Five, Six, Seven, Eight, and Nine of this Indictment, the defendant,

KARINA DELUNA

shall forfeit to the United States pursuant to Title 18 United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c), any firearms and ammunition involved in the commission of the offense, including, but not limited to: a Barrett, Model 82A1, SN: AA013868, .50 caliber rifle.

A TRUE BILL:

Original Signature on File
FOREPERSON OF THE GRAND JURY

ALAMDAR HAMDANI
UNITED STATES ATTORNEY

Benjamin J. Smith
Benjamin J. Smith 281-914-8151 (cell)
Special Assistant United States Attorney